IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Madan Lal & Anr. Versus State of Rajasthan & ors.

S.B. Criminal Revision No. 823/2005 against the order dated 8-6-2005 passed by the Addl. Sessions Judge, Ratangarh, Camp Sujangarh, in Criminal Revision No. 34/1997.

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Date of Order: April 27, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Trilok Joshi, for the petitioners.
Mr. JPS Chaudhary, Public Prosecutor for the State.
Mr. K.R. Saharan for Mr. Sajjan Singh, for non-petitioners No. 2 to 4.

BY THE COURT:

By the instant criminal revision under Section 397/401 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioners have challenged the order dated 8-6-2005 passed by the Additional Sessions Judge, Ratangarh, Camp Sujangarh, district Churu (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 34/1997, whereby the revision petition filed by non-petitioner No.2 Kamal S/o Banshidhar was allowed and the order dated 28-11-1997 passed by the Judicial Magistrate, Sujangarh, district Churu (for

short, "the trial Court" hereinafter) in Criminal Case No. 94/1997, was set aside.

I have heard learned counsel for the parties. Perused the orders of the Revisional Court as also of the trial Court.

From the record, it appears that a suit was filed by non-petitioner No.3 Banshidhar against the petitioners in the Court of the Civil Judge (Junior Division), Sujangarh. Along with the suit, an application for temporary injunction was also filed. In the said application, it is said that non-petitioner No.2 Kamal S/o Banshidhar filed two affidavits, one on 24-6-1992 and another on 10-7-1992. According to the petitioners, both the affidavits were contrary to each other and, therefore, requested the trial Court to file a complaint against non-petitioners No.2 to 4 for giving false evidence. The trial Court, vide order dated 28-11-97, came to the conclusion that prima facie there is evidence against non-petitioner No.2 Kamal S/o Banshidhar to proceed against him for the offence under Section 193 IPC, however, as against non-petitioners No. 3 and 4, there was no prima facie material to proceed against them; and directed to file a complaint against the non-petitioner No.2 Kamal S/o Banshidhar in the Court of the Chief Judicial Magistrate. That order came to be challenged by non-petitioner No.2 Kamal before the Revisional Court. The Revisional Court, by an elaborate and

well-reasoned order, came to the conclusion that there are no material contradictions in the two affidavits filed by non-petitioner No.2 Kamal S/o Banshdhar and, therefore, held that from the affidavits filed by non-petitioner No.2 Kamal, it does not appear that he intentionally gave false evidence and there are no material to initiate the proceedings and accordingly set aside the order of the trial Court.

From th perusal of the two affidavits filed by non-petitioner No.2 Kamal S/o Banshidhar, it does not appear that both the affidavits were in support of the temporary injunction application filed by non-petitioner No.3 Banshidhar. In both the affidavits, it nowhere appears that the affidavits have been filed by non-petitioner No.2 Kamal in support of the temporary injunction application verifying the facts stated in that application. Therefore, even if the affidavits are contrary to the contents of the temporary injunction application filed by non-petitioner No.3 Banshidhar, it cannot be said that non-petitioner No.2 Kamal made a contradictory statement with an intention to give false evidence. In this view of the matter, I do not find any error, illegality or perversity in the impugned order.

The revision petition is accordingly dismissed.

(H.R. PANWAR), J.

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